

HOUSE BILL No. 1781

DIGEST OF INTRODUCED BILL

Citations Affected: IC 12-7-2; IC 12-15-19.5.

Synopsis: Partial disproportionate share payments. Authorizes the office of Medicaid policy and planning to make partial disproportionate share payments to qualifying hospitals during or after a state fiscal year for the state fiscal year. Requires the office to: (1) establish criteria for a state fiscal year if the office decides to designate presumptively eligible hospitals as qualifying hospitals; and (2) apply for any necessary state Medicaid plan amendment. Prohibits a hospital from bringing certain causes of action against a governmental hospital or a public agency.

Effective: Upon passage.

Harris E, Brown T

January 26, 2007, read first time and referred to Committee on Ways and Means.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1781

A BILL FOR AN ACT to amend the Indiana Code concerning Medicaid.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 12-7-2-67.5 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
- 3 UPON PASSAGE]: **Sec. 67.5. "Disproportionate share payment",**
- 4 **for purposes of IC 12-15-19.5, has the meaning set forth in**
- 5 **IC 12-15-19.5-1.**
- 6 SECTION 2. IC 12-7-2-89.5 IS ADDED TO THE INDIANA CODE
- 7 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
- 8 UPON PASSAGE]: **Sec. 89.5. "Full amount", for purposes of**
- 9 **IC 12-15-19.5, has the meaning set forth in IC 12-15-19.5-2.**
- 10 SECTION 3. IC 12-7-2-91.1 IS ADDED TO THE INDIANA CODE
- 11 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
- 12 UPON PASSAGE]: **Sec. 91.1. "Fund" or "funded", for purposes of**
- 13 **IC 12-15-19.5, has the meaning set forth in IC 12-15-19.5-3.**
- 14 SECTION 4. IC 12-7-2-92.5 IS ADDED TO THE INDIANA CODE
- 15 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
- 16 UPON PASSAGE]: **Sec. 92.5. "Governmental hospital", for**
- 17 **purposes of IC 12-15-19.5, has the meaning set forth in**

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IC 12-15-19.5-4.

SECTION 5. IC 12-7-2-110 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 110. "Hospital" means the following:

(1) For purposes of IC 12-15-11.5, the meaning set forth in IC 12-15-11.5-1.

(2) For purposes of IC 12-15-18, the meaning set forth in IC 12-15-18-2.

(3) For purposes of IC 12-15-19.5, the meaning set forth in IC 12-15-19.5-5.

~~(3)~~ **(4)** For purposes of IC 12-16, except IC 12-16-1, the term refers to a hospital licensed under IC 16-21.

SECTION 6. IC 12-7-2-132.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 132.5. "Net disproportionate share payment", for purposes of IC 12-15-19.5, has the meaning set forth in IC 12-15-19.5-6.**

SECTION 7. IC 12-7-2-135.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 135.8. "Partial disproportionate share payment", for purposes of IC 12-15-19.5, has the meaning set forth in IC 12-15-19.5-7.**

SECTION 8. IC 12-7-2-155.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 155.5. "Qualifying hospital", for purposes of IC 12-15-19.5, has the meaning set forth in IC 12-15-19.5-8.**

SECTION 9. IC 12-15-19.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 19.5. Partial Disproportionate Share Payments

Sec. 1. As used in this chapter, "disproportionate share payment" means a payment to a hospital under IC 12-15-19-2.1.

Sec. 2. As used in this chapter, "full amount" means the total dollar amount, as calculated by the office for purposes of this chapter, that would be owed to a hospital for a state fiscal year under IC 12-15-19-2.1 and the state plan if sufficient state share dollars were available to fully fund the state's share of the disproportionate share payments owed under the state plan to all hospitals eligible for disproportionate share payments for a state fiscal year.

Sec. 3. As used in this chapter, "fund" or "funded" means the

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intergovernmental transfer of funds to the office by:

- (1) a governmental hospital to fund the state share of a disproportionate share payment to the governmental hospital; or
- (2) a public agency on behalf of a hospital pursuant to a written undertaking between the agency and the hospital, to fund the state share of a disproportionate share payment to the hospital.

Sec. 4. As used in this chapter, "governmental hospital" means a hospital that is established and operated under one (1) of the following:

- (1) IC 16-22-2.
- (2) IC 16-22-8.
- (3) IC 16-23.

Sec. 5. As used in this chapter, "hospital" refers to a hospital licensed under IC 16-21-2.

Sec. 6. As used in this chapter, "net disproportionate share payment" means:

- (1) for a hospital that funded, or on whose behalf a public agency funded, the state share of at least one (1) of the disproportionate share payments paid to the hospital for a state fiscal year, the amount determined when the amount of the state share funded by the hospital or public agency is subtracted from the total amount of disproportionate share payments paid to the hospital for the state fiscal year; or
- (2) for a hospital that did not fund, or on whose behalf a public agency did not fund, the state share of a disproportionate share payment paid to the hospital for a state fiscal year, the total amount of disproportionate share payments paid to the hospital for the state fiscal year.

Sec. 7. As used in this chapter, "partial disproportionate share payment" means a disproportionate share payment to a hospital for a state fiscal year in an amount that the office calculates to be less than the full amount owed to the hospital for a state fiscal year.

Sec. 8. As used in this chapter, "qualifying hospital" means a hospital that the office:

- (1) has determined before the end of a state fiscal year is eligible to receive disproportionate share payments for the state fiscal year; or
- (2) elects, before the end of the state fiscal year, to designate before the end of a state fiscal year under section 11 of this chapter as presumptively eligible to receive partial

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disproportionate share payments for the state fiscal year.

Sec. 9. (a) Subject to subsection (b), the office may:

(1) during and before the close of a state fiscal year; or

(2) after the close of a state fiscal year;

make at least one (1) partial disproportionate share payment for the state fiscal year to a qualifying hospital.

(b) The office may make a partial disproportionate share payment for a state fiscal year under subsection (a)(1) or (a)(2) only if:

(1) there are sufficient state share dollars available;

(2) a hospital's receipt of a partial disproportionate share payment does not exceed any limits regarding disproportionate share payments under federal law; and

(3) a hospital that is eligible for the partial disproportionate share payment would not receive a net disproportionate share payment for the state fiscal year, regardless of when the eligibility is established, that is less than the net disproportionate share payment that the hospital would have received for the state fiscal year if the office had not made a partial disproportionate share payment for the state fiscal year to the hospital under subsection (a)(1) or (a)(2).

(c) The office may make a partial disproportionate share payment under this section for a state fiscal year despite the commencement of an administrative or judicial proceeding involving:

(1) a hospital's eligibility for a disproportionate share payment for the state fiscal year; or

(2) the amount of a disproportionate share payment owed to a hospital for the state fiscal year.

(d) The office may decline to make a partial disproportionate share payment to a qualifying hospital for a state fiscal year if the office determines that the outcome of a commenced administrative or judicial proceeding may cause the hospital to be ineligible for a disproportionate share payment for the state fiscal year.

Sec. 10. (a) The office shall maintain timely procedures for determining whether a presumptively eligible hospital that receives a partial disproportionate share payment under this chapter for a state fiscal year is eligible for a disproportionate share payment for the state fiscal year.

(b) If a hospital that received a partial disproportionate share payment under section 9(a)(1) or 9(a)(2) of this chapter for a state fiscal year and is later determined by the office or the federal

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government to:

(1) be ineligible for a disproportionate share payment for the state fiscal year; or

(2) have received a payment amount that exceeds limitations established under federal law;

the hospital shall timely refund the payment or excessive amount to the office pending the results of any administrative or judicial action or proceeding on the determination. If the action or proceeding does not result in the sum being returned to the hospital, the office shall timely return the state share portion of the refunded amount to the entity that provided the state share of the disputed payment received by the hospital.

Sec. 11. (a) A presumptively eligible hospital is a hospital:

(1) whose eligibility status has not yet been determined by the office; and

(2) that satisfies the criteria established by the office for being designated with presumptively eligible hospital status.

(b) If the office decides to recognize presumptively eligible hospitals as qualifying hospitals to receive partial disproportionate share payments under section 9(a)(1) or 9(a)(2) of this chapter, the office shall develop criteria for the state fiscal year that would allow for the designation of a hospital as a presumptively eligible hospital only for hospitals that the office estimates will likely be determined to be eligible for disproportionate share payments for the state fiscal year. The criteria:

(1) must be developed for the state fiscal year by the office after the office's targeted limited scope desk review of:

(A) survey data on file with the office that the office determines is relevant and informative;

(B) cost and claims reports on file with the office that the office determines are relevant and informative;

(C) trending factors the office determines to be reasonable; and

(D) any other information the office specifies;

(2) must be applied uniformly to all hospitals for the state fiscal year being considered; and

(3) may differ for a partial disproportionate share payment made under section 9(a)(1) of this chapter and a partial disproportionate share payment made under section 9(a)(2) of this chapter.

(c) The criteria used by the office under this section are not void if a hospital designated with presumptive eligibility status for a

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state fiscal year is later determined by the office to be ineligible for a disproportionate share payment for the state fiscal year.

(d) A hospital's eligibility for a disproportionate share payment for a state fiscal year may not be influenced by whether the hospital was designated with presumptive eligibility status for the state fiscal year.

(e) The payment of a partial disproportionate share payment under section 9(a)(1) or 9(a)(2) of this chapter for a state fiscal year to a hospital designated as presumptively eligible for the state fiscal year may not reduce the amount of net disproportionate share payments received by a hospital that is not designated as presumptively eligible for the state fiscal year but is later determined to be eligible for a disproportionate share payment for the state fiscal year.

Sec. 12. The following actions are not subject to administrative or judicial review:

(1) A decision by the office concerning whether to make a partial disproportionate share payment under this chapter.

(2) The amount of any partial disproportionate share payment made under this chapter.

(3) A decision by the office concerning whether to recognize a presumptively eligible hospital as a qualifying hospital for purposes of this chapter.

(4) The criteria for presumptive eligibility status developed by the office under section 11 of this chapter and applied by the office.

(5) A decision by the office regarding whether to designate presumptive eligibility status to a hospital.

Sec. 13. Nothing in this chapter requires a hospital, or a public agency acting on behalf of a hospital, to fund the state share of any partial disproportionate share payment offered by the office under this chapter.

Sec. 14. A hospital may not bring or maintain a cause of action against a governmental hospital or a public agency based on the governmental hospital's decision or the public agency's decision to:

(1) make available; or

(2) not make available;

state share dollars for partial disproportionate share payments under this chapter.

SECTION 10. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.

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1 (b) If the office determines that IC 12-15-19.5, as added by this
2 act, requires an amendment to the state Medicaid plan, the office
3 shall submit an amendment to the state plan to the United States
4 Department of Health and Human Services not later than
5 September 30, 2007.

6 (c) The office may not implement the state plan amendment
7 until the office files an affidavit with the governor attesting that the
8 state plan amendment applied for under this SECTION is in effect.
9 The office shall file the affidavit under this subsection not later
10 than five (5) days after the office is notified that the state plan
11 amendment is approved.

12 (d) If the office receives approval for the state plan amendment
13 under this SECTION from the United States Department of Health
14 and Human Services and the governor receives the affidavit filed
15 under subsection (c), the office shall implement the plan
16 amendment not later than sixty (60) days after the governor
17 receives the affidavit.

18 (e) The office may adopt rules under IC 4-22-2 necessary to
19 implement this SECTION.

20 (f) This SECTION expires December 31, 2014.

21 SECTION 11. An emergency is declared for this act.

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